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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130326296-3642-02]

RIN 0648-BD10

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
Reef Fish Fishery of the Gulf of Mexico; Coastal Migratory  
Pelagic Resources of the Gulf of Mexico and South Atlantic;  
Abbreviated Framework

AGENCY: National Marine Fisheries Service (NMFS), National  
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement management measures described in an abbreviated framework to the Fishery Management Plans (FMPs) for the Reef Fish Resources of the Gulf of Mexico prepared by the Gulf of Mexico Fishery Management Council (Gulf Council), and Coastal Migratory Pelagic Resources prepared by the Gulf Council and the South Atlantic Fishery Management Council (South Atlantic Council). This final rule eliminates the requirement to submit a current certificate of inspection (COI) provided by the U.S. Coast Guard (USCG) with the application to renew or transfer a Federal Gulf of Mexico (Gulf)

coastal migratory pelagic (CMP) or reef fish charter vessel/headboat permit (hereafter referred to as a for-hire permit) and eliminates the restriction on transferring for-hire permits to a vessel of greater authorized passenger capacity than specified on the permit. This final rule also prohibits the harvest or possession of CMP or reef fish species on a vessel with a Gulf for-hire permit that is carrying more passengers than is specified on the permit. The purpose of this final rule is to simplify the passenger capacity requirements for transfers and renewals of Gulf CMP and reef fish for-hire permits to provide more flexibility in the use of these permitted vessels.

DATES: This rule is effective [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Electronic copies of the abbreviated framework, which includes a regulatory impact review, a Regulatory Flexibility Act analysis, and a social impact assessment, may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted in writing to Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; and Office of Management and Budget (OMB),

by e-mail at [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or by fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Peter Hood, Southeast Regional Office, telephone 727-824-5305, e-mail [Peter.Hood@noaa.gov](mailto:Peter.Hood@noaa.gov).

SUPPLEMENTARY INFORMATION: The Gulf reef fish and CMP fisheries are managed under their respective FMPs. The Gulf reef fish FMP was prepared by the Gulf Council and the CMP FMP was prepared by the Gulf and South Atlantic Councils and both FMPs are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On June 21, 2013, NMFS published a proposed rule for the abbreviated framework and requested public comment (78 FR 37500). The proposed rule and abbreviated framework outline the rationale for the actions contained in the final rule. A summary of the actions implemented by this final rule is provided below.

Current regulations limit Gulf for-hire permit transfers and renewals to vessels that have the same passenger capacity or a lower passenger capacity to limit overall fishing effort. Because passenger capacity is currently based on the USCG COI, this limits the ability of the owner of a permitted vessel to transfer the Gulf for-hire permit to a vessel that has a higher passenger capacity listed on the COI or to renew the permit under

the higher passenger capacity listed on the COI. Under such scenarios, the only way to renew or transfer a permit is to have the USCG adjust the COI so that it is less than or equal to the passenger capacity identified on the Gulf for-hire permit, which was based on the COI of the vessel when the moratorium Gulf for-hire permit was first issued, even though a vessel could safely carry more passengers, or subsequently has had the COI revised to carry more passengers.

This final rule eliminates the requirement to submit a current USCG COI with the application to renew or transfer a Gulf for-hire permit, eliminates the restriction on transferring for-hire permits to a vessel of greater authorized passenger capacity than specified on the permit, and implements a provision that prohibits the harvest or possession of reef fish or CMP species on a vessel with a Gulf for-hire permit that is carrying more passengers than specified on the vessel's Gulf for-hire permit. Because the passenger capacity for the Gulf for-hire vessel when fishing will be based on the COI of the vessel when the moratorium Gulf for-hire permit was first issued, the cap on fishing effort, which was the original purpose of the moratorium permits, will be maintained. As a result of this action, the requirements to renew or transfer a Gulf for-hire permit are simplified, for-hire effort control in the reef fish and CMP

fisheries will be maintained, and vessel owners will be allowed to carry more passengers for non-fishing activities if their COI is greater than the passenger capacity on their fore-hire permit.

#### Comments and Responses

NMFS received three comments from individuals on the abbreviated framework and the proposed rule. All three comments were in support of the actions contained in the abbreviated framework and the proposed rule. NMFS agrees with these comments. No changes were made in the final rule based on public comment.

#### Classification

The Regional Administrator, Southeast Region, NMFS, has determined that this final rule is necessary for the management of the Gulf reef fish and coastal migratory pelagic fisheries and is consistent with the abbreviated framework, the FMP, the Magnuson-Stevens Act and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this rule would not have a significant economic impact on a substantial number of small entities. The factual basis for this

determination was published in the proposed rule and is not repeated here. No comments were received regarding the certification and NMFS has not received any new information that would affect its determination. As a result, a final regulatory flexibility analysis was not required and none was prepared.

This final rule contains collection-of-information requirements subject to the requirements of the Paperwork Reduction Act (PRA), which have been approved by OMB under control number 0648-0205. NMFS estimates eliminating the requirement for Gulf for-hire permit holders to submit a current COI to renew or transfer a Gulf reef fish or CMP for-hire permit decreases the overall reporting burden under OMB control number 0648-0205. The requirement to submit a current COI is removed from the instructions on the Federal Permit Application for Vessels Fishing in the EEZ and a COI does not need to be submitted with the application to renew or transfer a permit. NMFS estimates these requirements decrease the reporting burden for Gulf for-hire permit holders who are renewing or transferring a Gulf for-hire permit on average by 1 minute per response. These estimates of the public reporting burden include the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Send comments regarding the burden estimate or any

other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see ADDRESSES).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 622

Certificate of inspection, Fisheries, Fishing, For-Hire, Gulf, Reporting and recordkeeping requirements.

Dated: July 25, 2013

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Alan D. Risenhoover,  
Director, Office of Sustainable Fisheries,  
performing the functions and duties of the  
Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH

ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.13, paragraph (g) is added to read as follows:  
§ 622.13 Prohibitions--general.

\* \* \* \* \*

(g) Fail to comply with the passenger capacity related requirements in §§ 622.20(b)(1) and 622.373(b)(1).

3. In § 622.20, paragraphs (b)(1)(i)(A) and (B) are revised and paragraph (b)(1)(iv) is added to read as follows:  
§ 622.20 Permits and endorsements.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) \* \* \*

(A) Permits without a historical captain endorsement. A charter vessel/headboat permit for Gulf reef fish that does not have a historical captain endorsement is fully transferable, with or without sale of the permitted vessel.

(B) Permits with a historical captain endorsement. A charter vessel/headboat permit for Gulf reef fish that has a historical captain endorsement may only be transferred to a



vessel operated by the historical captain and is not otherwise transferable.

\* \* \* \* \*

(iv) Passenger capacity compliance requirement. A vessel operating as a charter vessel or headboat with a valid charter vessel/headboat permit for Gulf reef fish, which is carrying more passengers on board the vessel than is specified on the permit, is prohibited from harvesting or possessing the species identified on the permit.

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4. In § 622.373, paragraphs (b)(1) and (2) are revised and paragraph (e) is added to read as follows:

§ 622.373 Limited access system for charter vessel/headboat permits for Gulf coastal migratory pelagic fish.

\* \* \* \* \*

(b) \* \* \*

(1) Permits without a historical captain endorsement. A charter vessel/headboat permit for Gulf coastal migratory pelagic fish that does not have a historical captain endorsement is fully transferable, with or without sale of the permitted vessel.

(2) Permits with a historical captain endorsement. A charter vessel/headboat permit for Gulf coastal migratory pelagic fish that has a historical captain endorsement may only be

transferred to a vessel operated by the historical captain and is not otherwise transferable.

\* \* \* \* \*

(e) Passenger capacity compliance requirement. A vessel operating as a charter vessel or headboat with a valid charter vessel/headboat permit for Gulf coastal migratory pelagic fish, which is carrying more passengers on board the vessel than is specified on the permit, is prohibited from harvesting or possessing the species identified on the permit.

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